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September 28, 1999

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

BY HAND

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Room TW-A325  
Washington, DC 20554

Re: Ex Parte Presentation in CC Docket No. 96-45 and CC Docket No. 97-21;  
Indiana Intelenet Commission, Application No. 42537

Dear Ms. Salas:

On September 28, 1998, Jerry Sullivan (Indiana Intelenet Commission), Greg Wilson (Indiana Intelenet Commission), and the undersigned (counsel to the Indiana Intelenet Commission) met with Irene Flannery of the Common Carrier Bureau and Aliza Katz of the General Counsel's office.

The discussion focused on the SLD's decision to reclassify the Intelenet Commission's USF funding request from priority one "Internet Access" to priority two "Internal Connections" because costs associated with routers or router maintenance were bundled with the Internet access service offering for which the Intelenet Commission sought support. Intelenet representatives pointed out that, under the FCC's August 11 Tennessee decision, the Intelenet funding requests at issue are properly classified as entirely priority one Internet Access services and not priority two Internal Connections.

Intelenet representatives also explained that even if the routers were classified as priority two Internal Connections, they represent only a small percentage of Intelenet's application, over 90% of which is composed of undisputed priority one Internet access service. Since applicants had no notice of the SLD's subsequently-applied policy of treating bundled priority one and two applications as completely priority two Internet Connection applications, fundamental fairness requires that the over 90% of Intelenet's application representing undisputed priority one Internet access services should be fully

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funded. Finally, Intelenet representatives provided examples of rural Indiana schools and libraries whose Internet access funding requests will go completely unfunded unless the SLD's decision is reversed.

This notice is being provided pursuant to Sections 1.1206(b)(2) and 1.1208, note 1 of the Commission's rules. All materials distributed at the meeting are attached. If there are any questions about this filing, please contact the undersigned.

Respectfully submitted,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

By: 

Tillman L. Lay  
Counsel for the Intelenet Commission

TLL/chb

Attachments

cc: Irene Flannery  
Aliza Katz

WALIB:87383.1\112492-00001

CC DOCKET NOS. 96-45 AND 97-21  
INDIANA INTELNET COMMISSION  
APPLICATION NO. 42537

I. Background.

- In April 1998, Intelnet applied for USF support for Internet access services to be furnished to Indiana's public schools and libraries. The applications were for Internet access services only. Some vendors did not itemize the components of their Internet access services. Others did itemize, listing "routers" as among the components of their Internet access offering.
- SLD ultimately denied \$2.9 million worth of funding for 339 schools and libraries because (1) it reclassified those FRNs that itemized the components of the Internet access offering as entirely "Internal Connections," apparently simply because a router was listed as one of the itemized components; and (2) the discount level for those schools and libraries was below 70%.
- The routers at issue represent less than 10% of the total amount of the support requested; over 90% of the support requested represents undisputed priority one Internet access services.

II. The Routers At Issue Represent "Internet Access," Not "Internal Connections," Under the Recent "Tennessee" Decision.

- A. The routers do not "function solely to transmit information over the distance from the classroom to [the ISP vendor]." Tennessee, ¶ 38. To the contrary, the routers at issue "act as the point where [the ISP vendor] begins to provide Internet access service." Id.

- B. Routers are not necessary to transport information within schools or libraries. Id. To the contrary, the LANs within individual schools and libraries will function without the router.
- Internet Router port connects to school's router.
  - School provides its own security.
  - School provides for its own AUP policy.
  - School can operate LAN and local WAN without Internet connection.
- C. Routers are located at the demarcation point between the particular school or library and the ISP vendor's network. They are, in essence, the ISP vendor's "point of presence for Internet access at the schools [and libraries]." Id.
- D. Routers at issue are owned by the ISP vendor, not the schools or libraries. Tennessee at ¶¶ 39 & 40.
- E. Neither Intelenet nor the schools or libraries have the option to purchase the routers at the end of the contract. Id. at ¶39. In fact, the vendor can do what it wishes with the routers, both before and after contract termination, as long as it continues to provide the Internet access service it is required to provide.
- F. While, much as in Tennessee (¶ 40), the Internet access service provided to schools and libraries is "dedicated access," the specific router facilities used are not "exclusively dedicated." The vendor may -- and indeed, probably

will -- upgrade and change out routers over the term of the contract to provide more efficient service.

G. The Internet access service provided is a bundled service including an Internet carrier connection port, local access loop (T-1s), WAN access router and network management. Since the routers (and other facilities) belong to the vendor, the vendor is responsible for maintenance and the vendor's cost of maintenance is bundled into the cost of the Internet access service package. There is no separate maintenance agreement involving the routers. See Tennessee at ¶ 39.

H. Non-recurring and Recurring costs.

- All charges are postalized for consistent statewide pricing.
- Monthly recurring costs are \$1375/mo.
  - Includes all bundled service elements.
- NRC is a \$2000 one-time charge.
  - \$1500 is for T-1 telco installation cost.
  - \$500 is for ISP labor to configure, dispatch, connect and test the network service through the router to the demarcation point.

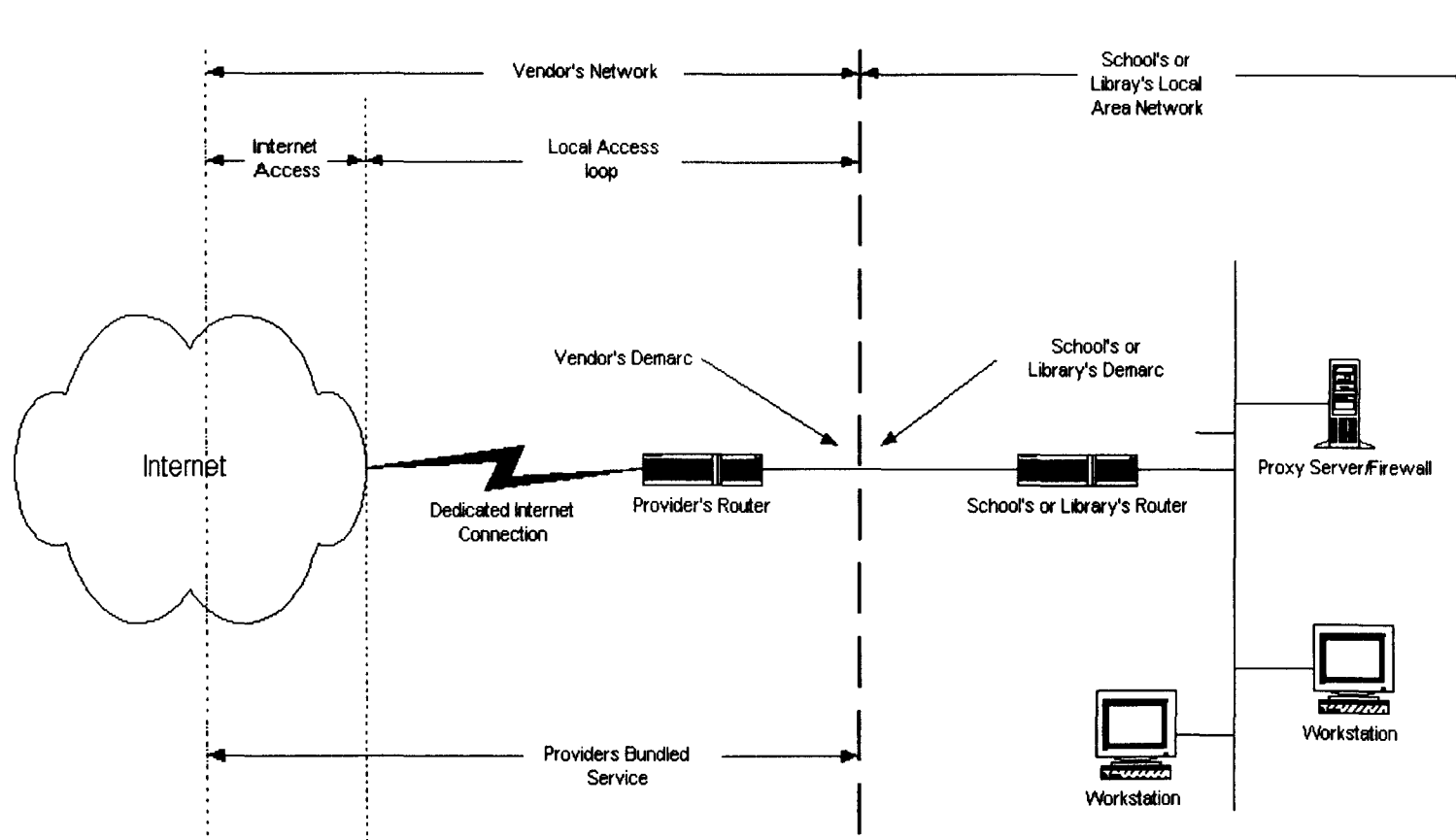
III. Impact of Reclassification.

- Nearly \$3 million worth of undisputed priority one Internet access service to Indiana schools and libraries will go unfunded due to what the SLD concluded was about \$250,000 worth of eligible, albeit priority two, Internal Connections.
- This is directly contrary to Fifth Reconsideration Order's ruling that all priority one Internet access service requests would be "fully supported."
- Many schools and libraries in rural, relatively poor areas of Indiana are left completely unfunded by the SLD's decision. Some examples are attached.

IV. Suggested Solutions.

- A. Determine that routers are a component part of priority one Internet access services under the Tennessee decision and fully support the FRNs at issue.
- B. Alternatively, if the routers at issue are determined to be Internal Connections, permit the cost attributable to those routers to be unbundled from the priority one Internet access services and fully fund the over 90% of Intelenet's request representing undisputed priority one Internet access services.

# Bundled Internet Service



# Disadvantaged

- At least 1/3 are Rural Schools and Libraries
- Many Rural Schools/Libraries are located in farm and agriculture communities
- In Farm Areas School Lunch Program participation may not be a reliable indicator of poverty



FCC Examples

FCD Letter	Billed entity	FRN	SPIN	Provider	School/Library	Monthly Cost	Pre-Discounted Amount	18 month pre-discounted amount	Discount Percent	Unfunded Discounted Amount	Rural/Urban
00042537	1516564	137796	143004533	IHETS	Southern Hancock	\$ 1,350.00	\$ 16,200.00	\$24,300.00	40%	\$9,720.00	Rural
00042537	1516564	141671	143004533	IHETS	Central Nine	\$ 1,350.00	\$ 16,200.00	\$24,300.00	40%	\$9,720.00	Rural
00042537	1516564	141705	143004533	IHETS	Clinton Prairie	\$ 954.17	\$ 11,450.00	\$17,175.00	46%	\$7,900.50	Rural
00042537	1516564	142774	143004533	IHETS	north manchester p l	\$ 475.00	\$ 5,700.00	\$8,550.00	47%	\$4,018.50	Rural
00042537	1516564	141615	143004533	IHETS	Batesville	\$ 1,350.00	\$ 16,200.00	\$24,300.00	50%	\$12,150.00	Rural
00042537	1516564	143082	143004533	IHETS	Batesville P L	\$ 1,066.67	\$ 12,800.00	\$19,200.00	50%	\$9,600.00	Rural
00042537	1516564	142768	143004533	IHETS	Carrol JR High	\$ 475.00	\$ 5,700.00	\$8,550.00	50%	\$4,275.00	Rural
00042537	1516564	141665	143004533	IHETS	Centerville Abington	\$ 475.00	\$ 5,700.00	\$8,550.00	50%	\$4,275.00	Rural
00042537	1516564	142036	143004533	IHETS	Northeastern Wayne (upgrade)	\$ 391.67	\$ 4,700.00	\$7,050.00	50%	\$3,525.00	Rural
00042537	1516564	141442	143005695	Sprint	Shenandoah (old Sprint T-1 )	\$ 1,252.00	\$ 15,024.00	\$22,536.00	50%	\$11,268.00	Rural
00042537	1516564	142054	143004533	IHETS	Tri County	\$ 729.17	\$ 8,750.00	\$13,125.00	50%	\$6,562.50	Rural
00042537	1516564	142140	143004533	IHETS	North Montgomery	\$ 1,066.67	\$ 12,800.00	\$19,200.00	51%	\$9,792.00	Rural
00042537	1516564	142141	143004533	IHETS	Green Castle	\$ 525.00	\$ 6,300.00	\$9,450.00	51%	\$4,819.50	Rural
00042537	1516564	142142	143004533	IHETS	Knightstown P L	\$ 475.00	\$ 5,700.00	\$8,550.00	52%	\$4,446.00	Rural
00042537	1516564	143526	143004533	IHETS	Benton P L	\$ 475.00	\$ 5,700.00	\$8,550.00	54%	\$4,617.00	Rural
00042537	1516564	142081	143004533	IHETS	Greensburg (upgrade)	\$ 954.17	\$ 11,450.00	\$17,175.00	55%	\$9,446.25	Rural
00042537	1516564	142602	143004533	IHETS	Greensburg P L upgrade	\$ 954.17	\$ 11,450.00	\$17,175.00	55%	\$9,446.25	Rural
00042537	1516564	141937	143004533	IHETS	Hamilton Com Sch	\$ 616.67	\$ 7,400.00	\$11,100.00	55%	\$6,105.00	Rural
00042537	1516564	141938	143004533	IHETS	Kentland P L	\$ 475.00	\$ 5,700.00	\$8,550.00	55%	\$4,702.50	Rural
00042537	1516564	141725	143004533	IHETS	Pioneer Regional	\$ 729.17	\$ 8,750.00	\$13,125.00	55%	\$7,218.75	Rural
00042537	1516564	143056	143004533	IHETS	Randolph Central	\$ 525.00	\$ 6,300.00	\$9,450.00	55%	\$5,197.50	Rural
00042537	1516564	141928	143004533	IHETS	S. Putnam	\$ 729.17	\$ 8,750.00	\$13,125.00	55%	\$7,218.75	Rural
00042537	1516564	141524	143004533	IHETS	South Newton	\$ 729.17	\$ 8,750.00	\$13,125.00	55%	\$7,218.75	Rural
00042537	1516564	141469	143004533	IHETS	Whitko	\$ 1,350.00	\$ 16,200.00	\$24,300.00	55%	\$13,365.00	Rural
00042537	1516564	141471	143004533	IHETS	Argos	\$ 600.00	\$ 7,200.00	\$10,800.00	56%	\$6,048.00	Rural
00042537	1516564	141824	143004533	IHETS	Argos (T-1 upgrade)	\$ 729.17	\$ 8,750.00	\$13,125.00	56%	\$7,350.00	Rural
00042537	1516564	142075	143004533	IHETS	Delphi (upgrade)	\$ 954.17	\$ 11,450.00	\$17,175.00	56%	\$9,618.00	Rural
00042537	1516564	142076	143004533	IHETS	Delphi P L	\$ 954.17	\$ 11,450.00	\$17,175.00	56%	\$9,618.00	Rural
00042537	1516564	141618	143004533	IHETS	Jac-Cen-Del	\$ 600.00	\$ 7,200.00	\$10,800.00	56%	\$6,048.00	Rural
00042537	1516564	141722	143004533	IHETS	Logansport	\$ 954.17	\$ 11,450.00	\$17,175.00	56%	\$9,618.00	Rural
00042537	1516564	143113	143004533	IHETS	logansport p l	\$ 954.17	\$ 11,450.00	\$17,175.00	56%	\$9,618.00	Rural
00042537	1516564	143114	143004533	IHETS	MSD New Durham	\$ 954.17	\$ 11,450.00	\$17,175.00	56%	\$9,618.00	Rural
00042537	1516564	141516	143004533	IHETS	North Putnam	\$ 1,350.00	\$ 16,200.00	\$24,300.00	56%	\$13,608.00	Rural
00042537	1516564	142337	143004533	IHETS	Rockville	\$ 954.17	\$ 11,450.00	\$17,175.00	56%	\$9,618.00	Rural
00042537	1516564	142793	143004533	IHETS	Rockville P L upgrade	\$ 954.17	\$ 11,450.00	\$17,175.00	56%	\$9,618.00	Rural
00042537	1516564	142382	143004533	IHETS	Rush Cty upgrade	\$ 954.17	\$ 11,450.00	\$17,175.00	56%	\$9,618.00	Rural
00042537	1516564	142005	143004533	IHETS	Southwest School Corp (Carlisle tail add)	\$ 475.00	\$ 5,700.00	\$8,550.00	56%	\$4,788.00	Rural

FCC Examples

FCD Letter	Billed entity	FRN	SPIN	Provider	School/Library	Monthly Cost	Pre-Discounted Amount	18 month pre-discounted amount	Discount Percent	Unfunded Discounted Amount	Rural/Urban
00042537	1516564	142007	143004533	IHETS	Southwest School Corp (Carlisle tail add)	\$ 475.00	\$ 5,700.00	\$8,550.00	56%	\$4,788.00	Rural
00042537	1516564	142002	143004533	IHETS	Southwest School Corp (Graysville tail add)	\$ 475.00	\$ 5,700.00	\$8,550.00	56%	\$4,788.00	Rural
00042537	1516564	142815	143004533	IHETS	Tell city P L upgrade	\$ 954.17	\$ 11,450.00	\$17,175.00	56%	\$9,618.00	Rural
00042537	1516564	142482	143004533	IHETS	Bloomfield Library up grade	\$ 475.00	\$ 5,700.00	\$8,550.00	57%	\$4,873.50	Rural
00042537	1516564	142042	143004533	IHETS	Fremont	\$ 1,179.17	\$ 14,150.00	\$21,225.00	57%	\$12,098.25	Rural
00042537	1516564	137773	143004533	IHETS	Linton-Stockton	\$ 525.00	\$ 6,300.00	\$9,450.00	57%	\$5,386.50	Rural
00042537	1516564	142644	143004533	IHETS	Plymouth P L	\$ 954.17	\$ 11,450.00	\$17,175.00	57%	\$9,789.75	Rural
00042537	1516564	143106	143004533	IHETS	Michigan City P L	\$ 600.00	\$ 7,200.00	\$10,800.00	58%	\$6,264.00	Rural
00042537	1516564	142508	143004533	IHETS	Crawfordsville P L	\$ 954.17	\$ 11,450.00	\$17,175.00	59%	\$10,133.25	Rural
00042537	1516564	142615	143004533	IHETS	Jay P L upgrade	\$ 954.17	\$ 11,450.00	\$17,175.00	59%	\$10,133.25	Rural
00042537	1516564	142626	143004533	IHETS	kokomo P L upgrade	\$ 954.17	\$ 11,450.00	\$17,175.00	59%	\$10,133.25	Rural
00042537	1516564	137763	143004533	IHETS	Seymore	\$ 1,350.00	\$ 16,200.00	\$24,300.00	59%	\$14,337.00	Rural
00042537	1516564	142372	143004533	IHETS	Milan	\$ 600.00	\$ 7,200.00	\$10,800.00	60%	\$6,480.00	Rural
00042537	1516564	141983	143004533	IHETS	Randolph Southern	\$ 616.67	\$ 7,400.00	\$11,100.00	60%	\$6,660.00	Rural
00042537	1516564	141641	143004533	IHETS	South Spencer	\$ 1,350.00	\$ 16,200.00	\$24,300.00	60%	\$14,580.00	Rural
00042537	1516564	142802	143004533	IHETS	Spencer County upgrade	\$ 475.00	\$ 5,700.00	\$8,550.00	60%	\$5,130.00	Rural
00042537	1516564	141932	143004533	IHETS	Turkey Run	\$ 391.67	\$ 4,700.00	\$7,050.00	60%	\$4,230.00	Rural
00042537	1516564	137782	143004533	IHETS	North Gibson	\$ 600.00	\$ 7,200.00	\$10,800.00	61%	\$6,588.00	Rural
00042537	1516564	141686	143004533	IHETS	Flat Rock Haw Creek	\$ 1,066.67	\$ 12,800.00	\$19,200.00	62%	\$11,904.00	Rural
00042537	1516564	141687	143004533	IHETS	Mitchell	\$ 600.00	\$ 7,200.00	\$10,800.00	62%	\$6,696.00	Rural
00042537	1516564	141988	143004533	IHETS	Mitchell	\$ 729.17	\$ 8,750.00	\$13,125.00	62%	\$8,137.50	Rural
00042537	1516564	142114	143004533	IHETS	Fayette Co	\$ 1,252.00	\$ 15,024.00	\$22,536.00	63%	\$14,197.68	Rural
00042537	1516564	141805	143004533	IHETS	New Castle (migration to IND.net	\$ 729.17	\$ 8,750.00	\$13,125.00	63%	\$8,268.75	Rural
00042537	1516564	141497	143004533	IHETS	New Castle P L	\$ 1,235.42	\$ 14,825.00	\$22,237.50	63%	\$14,009.63	Rural
00042537	1516564	142051	143004533	IHETS	Western Wayne	\$ 391.67	\$ 4,700.00	\$7,050.00	63%	\$4,441.50	Rural
00042537	1516564	142332	143004533	IHETS	Pike County upgrade	\$ 954.17	\$ 11,450.00	\$17,175.00	64%	\$10,992.00	Rural
00042537	1516564	141979	143004533	IHETS	Randolph Eastern	\$ 954.17	\$ 11,450.00	\$17,175.00	64%	\$10,992.00	Rural
00042537	1516564	143071	143004533	IHETS	Culver Com	\$ 1,066.67	\$ 12,800.00	\$19,200.00	65%	\$12,480.00	Rural
00042537	1516564	141795	143004533	IHETS	MSD Shakamak	\$ 504.17	\$ 6,050.00	\$9,075.00	65%	\$5,898.75	Rural
00042537	1516564	142330	143004533	IHETS	Paoli Upgrade	\$ 954.17	\$ 11,450.00	\$17,175.00	65%	\$11,163.75	Rural
00042537	1516564	142147	143004533	IHETS	Peru P L	\$ 725.00	\$ 8,700.00	\$13,050.00	65%	\$8,482.50	Rural
00042537	1516564	142348	143004533	IHETS	Southwest Parke upgrade	\$ 954.17	\$ 11,450.00	\$17,175.00	65%	\$11,163.75	Rural
00042537	1516564	141527	143004533	IHETS	Springs Valley	\$ 1,066.67	\$ 12,800.00	\$19,200.00	65%	\$12,480.00	Rural
00042537	1516564	142807	143004533	IHETS	Sullivan P L upgrade	\$ 954.17	\$ 11,450.00	\$17,175.00	65%	\$11,163.75	Rural
00042537	1516564	141461	143004533	IHETS	SW Jefferson	\$ 1,066.67	\$ 12,800.00	\$19,200.00	65%	\$12,480.00	Rural
00042537	1516564	142397	143004533	IHETS	W Washington upgrade	\$ 954.17	\$ 11,450.00	\$17,175.00	65%	\$11,163.75	Rural
00042537	1516564	142359	143004533	IHETS	West Noble upgrade	\$ 954.17	\$ 11,450.00	\$17,175.00	65%	\$11,163.75	Rural

FCC Examples

FCD Letter	Billed entity	FRN	SPIN	Provider	School/Library	Monthly Cost	Pre-Discounted Amount	18 month pre-discounted amount	Discount Percent	Unfunded Discounted Amount	Rural/Urban
00042537	1516564	142477	143004533	IHETS	bicknell P.L.upgrade	\$ 954.17	\$ 11,450.00	\$17,175.00	67%	\$11,507.25	Rural
00042537	1516564	141842	143004533	IHETS	N. Knox	\$ 729.17	\$ 8,750.00	\$13,125.00	67%	\$8,793.75	Rural
										\$654,984.56	
** This list is not an all inclusive list.											